



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Robert F. McDonnell

900 East Main Street
Richmond, Virginia 23219
804-786-2071
804-371-8947 TDD

October 5, 2006

TO: BRIAN MCCORMICK
Virginia Department of Medical Assistance Services

FROM: USHA KODURU
Assistant Attorney General

DATE: October 5, 2006

SUBJECT: Fast Track Regulation to Increase Reimbursement for Hospitals, Certain Physicians and Nursing Facilities

I am in receipt of the attached regulation to increase reimbursements for certain providers. You have asked the Office of the Attorney General to review and determine if the Department of Medical Assistance Services ("DMAS") has the legal authority to promulgate the regulation and if the regulation comports with state and federal law.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code §§ 32.1-324 and 325, has the authority to promulgate these amendments to the State Plan, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. These regulations will enable the Director to amend the regulations to raise the adjustment factor for private hospitals from 76 percent to 78 percent, increase reimbursements for Pediatric Physician Services by 5 percent and adjust various cost ceilings for nursing facilities according to the Board of Medical Assistance Services' requirements. However, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, DMAS shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Brian McCormick
October 5, 2006
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If you have any questions or need additional information, please contact me at 786-4905.

cc: Kim F. Piner, Esquire

Attachment